

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 03 AUG 21 AM 8:12

BEFORE THE ADMINISTRATOR

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of)

MINOR RIDGE, L.P.,)

d/b/a MINOR RIDGE APARTMENTS)

Respondent)

Docket No. TSCA-07-2003-0019

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about November 21, 2002, pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), when the United States Environmental Protection Agency, Region VII ("Complainant" or "EPA"), issued to Minor Ridge, L.P., d/b/a Minor Ridge Apartments, of Kansas City, Missouri ("Respondent"), a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of Section 409 of TSCA, 15 U.S.C. § 2689, and the regulatory requirements of 40 C.F.R. Part 745, Subpart F, "Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property" ("Disclosure Rule"), which were promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*

The Complaint proposed a civil penalty of Twenty Four Thousand Two Hundred Dollars (\$24,200) for the alleged violations. Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and

Final Order is the result of such negotiations, and fully and finally resolves all allegations contained in the Complaint.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.
2. Respondent waives any right to contest the allegations in the Complaint and waives its right to appeal the Final Order accompanying this Consent Agreement.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F.
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of Three Thousand Three Hundred and Eighty-Eight Dollars (\$3388.00), to be paid within thirty (30) days of the effective date of the Final Order.
6. Respondent understands that its failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 5 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently two percent (2%) per annum for the period January 1, 2003 through

December 31, 2003) on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Three Thousand Three Hundred and Eighty-Eight Dollars (\$3388.00), within thirty (30) days the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and remitted to:

EPA-Region VII
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101; and

Mike Gieryic
Office of Regional Counsel
United States Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT:
MINOR RIDGE, L.P.

Date 8-12-03

By

J E Lattin

Title

General Partner

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Date August 20, 2003

By

Mike Gieryic
Mike Gieryic, Attorney
EPA, Region VII

IT IS SO ORDERED. This Final Order shall become effective immediately.

Date

August 20, 2003

Robert L. Patrick
Robert L. Patrick
Regional Judicial Officer
EPA, Region VII

IN THE MATTER OF Minor Ridge, L.P., d/b/a Minor Ridge Apartments, Respondent
Docket No. TSCA-07-2003-0019

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Michael Gieryic
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Terry J. Satterlee
Thomas J. Grever
Lathrop & Gage L.C.
2345 Grand Boulevard, Suite 2800
Kansas City, Missouri 64108-2684


Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

The Honorable Barbara A. Gunning
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 8/21/03


Kathy Robinson
Regional Hearing Clerk